

### **REMARKS**

Reconsideration and allowance in view of the foregoing amendment and the following remarks are respectfully requested. Claims 27-29 are amended without prejudice or disclaimer.

Applicants thank the Examiner for the non-final Office Action and shall provide further explanation and arguments with regards to why one of skill in the art would not have sufficient motivation or suggestion to combine these references.

Applicants shall address the response to arguments starting on page 2 of the Office Action with regards to Lee et al. and Lizner et al. Applicants first note that the argument on page 3 of the Office Action that the feature which we rely upon (i.e., portion) are not recited in the rejected claims and that limitations for the specification are not read into the claims. Applicants respectfully submit that this citation to the In re Van Geuns case is irrelevant to the Section 103 obviousness analysis in that what we are discussing are the teachings and suggestions of the prior art references to determine whether one of skill in the art would have motivation or suggestion to combine these references. This analysis necessarily cannot involve hindsight reasoning that could be gleaned from the Applicants' specification, including the claims. Therefore, whether how the claims use the word "portion" is not relevant to an appropriately presented Section 103 argument.

Applicants traverse the citation to Websters Dictionary inasmuch as it is axiomatic that one of skill in the art can be his or her own lexicographer and the definition of the terms must be gleaned from the suggestions that may be found within the teachings of each reference. Therefore, Applicants submit that one cannot redefine the term "portion" as it is used within any particular reference to be broader or different by mere citation of Websters Dictionary because we are limited to the scope of the usage as a term is used by the inventor in the specification.

Next, Applicants note that page 4 of the Office Action discusses the group of frames (GOPs) concept and simply defines that definition in a manner so as to read on claim 1. Applicants traverse this approach inasmuch as the group of frames is not disclosed in Lizner et al. Therefore, is no citation to Lizner et al. for any discussion of a group of frames that are organized in a temporal, multiframe fashion as is recited in claim 1. Applicants therefore submit that it is essentially the same as taking Official Notice of this feature and to the extent that this is the case, Applicants traverse this taking of Official Notice and request citation to a reference that actually teaches this feature.

With regards to the actual teachings of Lizner et al., Applicants note that column 6, lines 56-58 are cited. These portions merely discuss the encoders 32-i may be configured to operate in accordance with the MPEG-2 standard and that each encoder 32-i produces a compressed video bitstream. Applicants do note that the MPEG-2 standard does use a group of frames concept but that concept differs than how it is characterized in the Office Action. For example, what MPEG-2 does is define a group of frames or a group of pictures (GOPs) that are defined as beginning with an I-frame and is followed by P-frames and B-frames. Therefore, a group of pictures may look like the following: IBBPBBPBBPBB. Applicants note that the I-frames are intra coded frames and P-frames are predictive coded frames and B-frames are bi-directionally predicted coded frames as is known in the art. Applicants submit that the use of these frames differs from what is taught in claim 1 (this of course is a separate argument from our obviousness analysis which will continue next) which recites a predefined model to each of at least two content portions of the video content, wherein each of the at least two video content portions comprises a temporal, multiframe segment of the video content. The group of pictures in MPEG-2 are not organized or encoded in that manner.

Applicants now continue with the core of our argument. In addition to our earlier arguments regarding the differences in the teachings of the references, Applicants have further studied the references and have additional arguments which are even more potent and expressly discussed in the references. First, we note that Lee et al. expressly distances itself from the MPEG standards and specifically MPEG-1, MPEG-2 and H.26X. Column 1, starting at line 43, discusses that there are limitations in storing or transmitting massive amounts of digital video information which have lead to the various video compression standards. They note that:

“These conventional video compression techniques utilize similarities between successive image frames, referred to as temporal or interframe correlation, to provide interframe compression in which pixel-based representations of image frames are converted to motion representations. In addition, the conventional video compression techniques utilize similarities within image frames, referred to as spatial or intraframe correlation, to provide intraframe compression in which the motion representations within an image frame are further compressed. Intraframe compression is based upon conventional processes for compressing still images, such as discrete consign transport (DCT) encoding.”

After a description of the MPEG-2 interframe and intraframe compression techniques, which include an explanation of a transformation block error E which relates to the differences between video information and corresponding transformation blocks that are not identical, Lee et al. note the challenges with large transformation block errors in the MPEG standards. Therefore, they conclude their background of the invention section by stating “conventional video compression methods appear to be inherently limited due to the size of transformation errors E. With the increased demand for digital video display capabilities, improved digital video compression processes are required.” Column 2, lines 59-63. Applicants respectfully submit that the background of the invention of Lee et al. clearly set forth a position that the MPEG video standards have problems. These video compression standards are articulated as being inherently limited due to the size of this transformation error which is based on the fundamental process of

using interframe and intraframe compression. It is the intraframe (I-frames) and interframe (P-frames and B-frames) that are articulated as being the problem in the teachings of Lee et al.

Applicants respectfully submit that this express teaching away from MPEG-2 would lead one of skill in the art to avoid the teachings of Lizner et al. Notably, in column 6 cited by the Examiner, MPEG-2 is cited as the mechanism by which video frames are encoded. As has been explained above, and as has been relied upon in the Examiner's analysis in the outstanding Office Action, the MPEG-2 approach and the group of pictures approach is known in MPEG-2 is the basis upon which the Lizner et al. reference is being used in the obviousness analysis. However, the flaw in that analysis, has as been noted above, is that Lee et al. expressly criticize the use of the MPEG-2 compression approach. Therefore, Applicants submit that because the GOP approach utilizes an I-frame and then is followed by a series of B-frames and P-frames, which compression approach is expressly criticized by Lee et al., Applicants submit that one of skill in the art would clearly not have sufficient motivation or suggestion, by a preponderance of the evidence, to incorporate the MPEG-2 compression approach into Lee et al.

Applicants further develop this argument. Under their summary of the invention, Lee et al. explain that their approach involves reducing overhead by encoding and decoding video objects in an object-based encoder as opposed to a block-based coding scheme. Applicants note that the object-based approach will differ from the MPEG compression techniques which are block based. Thus, when we turn to the cited portion of Lee et al. in column 42, we note that it is focused on this object-based video encoding method. Clearly, this approach is meant as a distinguishable approach from the MPEG compression techniques. Thus, when the Examiner cites column 42, this approach is expressly recited as being the "object based coding method" which includes an object definition block and an object definition phase as is discussed in column 42. Applicants basic point is that again citing the principles in MPEP 2143.01, Section

V and VI, that if these two references were to be blended, then clearly Lee et al. would be modified in a manner unsatisfactory for its intended purpose. See In re Gordon, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). In other words, the MPEP notes that there is no suggestion or motivation to make the proposed modification “if the proposed modification would render the prior art invention being unsatisfactory for its intended purpose.” Applicants submit that there cannot be a clearer application of this rule. The expressly articulated intended purpose of Lee et al. is to implement an object based video encoder and decoder that differ from the interframe and intraframe compression technique of MPEG. If the blending of these references according to the analysis of the Examiner were to be carried out, then this intended purpose would be frustrated because the MPEG-2 approach and the GOPs approach would be incorporated into the object-based video coding method of Lee et al. thus forcing Lee et al. to use the very MPEG-2 compression technique that Lee et al. criticized in their introduction. Therefore, this would clearly render Lee et al. unsatisfactory for its intended purpose.

Applicants further note that the evidence must be weighed on both sides of this argument and the preponderance of the evidence is what governs the analysis. In other words, Applicants submit that the above argument easily is weightier than the arguments set forth in the Office Action because they rely on express teachings within the art as well as a direct application of MPEP 2143.01. Therefore, Applicants submit that because Lee et al. cannot be combined with Lizner et al., Applicants submit that claims 1-5, 7-16, 18-22 and 27-35 are patentable and in condition for allowance.

**Rejection of Claims 27-29 Under 35 U.S.C. §101**

The Office Action rejects claims 27-29 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Applicants have amended claims 27-29 to recite that the coded bitstream is stored in a tangible computer-readable medium as is suggested

on page 10 of the Office Action. Therefore, Applicants submit that these claims comply with 35 U.S.C. §101 and request withdrawal of this rejection.

**Rejection of Claims 1-5, 7-16, 18-22 and 27-35 Under 35 U.S.C. §103(a)**

The Office Action rejects claims 1-5, 7-16, 18-22 and 27-35 under 35 U.S.C. §103(a) as being unpatentable over Lee et al. (U.S. Patent No. 5,748,789) ("Lee et al.") in view of Lizner et al. (U.S. Patent No. 6,094,457) ("Lizner et al."). Applicants further traverse this rejection and incorporate the arguments set forth above which clearly set forth that the incorporation of MPEG-2's group of pictures interframe and intraframe compression techniques within the teachings of Lee et al. would require a modification of Lee et al.'s invention to be unsatisfactory for its expressly articulated intended purpose. Therefore, Applicants submit that these references should not be combined and the claim set is patentable and in condition for allowance.

**CONCLUSION**

Having addressed all rejections and objections, Applicants respectfully submit that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited. If necessary, the Commissioner for Patents is authorized to charge or credit the **Novak, Druce & Quigg, LLP, Account No. 14-1437** for any deficiency or overpayment.

Respectfully submitted,

Date: October 14, 2008

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